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12 Attorney for Defendants

13 CITY OF HENDERSON, CHIEF JUTTA CHAMBERS

14 And OFFICER JOSEPH W. EBERT

15 **UNITED STATES DISTRICT COURT**

16 **DISTRICT OF NEVADA**

17 ADAM BROOKS,

18 Plaintiff,

19 v.

20 CITY OF HENDERSON; CHIEF JAMES
21 WHITE, in his capacity as Interim Chief of
22 the Henderson Police Department;
23 OFFICER JOSEPH W. EBERT, individually;
24 DOES 1 through 10, inclusive;

25 Defendants.

26 CASE NO.: 2:14-cv-00374-GMN-GWF

27 **STIPULATION AND ORDER TO STAY DISCOVERY PENDING RULING ON**
DEFENDANTS' MOTION TO DISMISS

28 COME NOW, Plaintiff ADAM BROOKS, by and through his attorneys, Cal J. Potter,
29 III, Esq., and C.J. Potter, IV, Esq. of Potter Law Offices; and Defendants, CITY OF
30 HENDERSON, OFFICER JOSEPH W. EBERT and CHIEF JAMES WHITE (collectively
31 "Defendants"), by and through their attorneys, Josh M. Reid, Henderson City Attorney and
32 Nancy D. Savage, Assistant City Attorney for the CITY OF HENDERSON, and HEREBY
33 STIPULATE AND AGREE as follows:

CITY ATTORNEY'S OFFICE
CITY OF HENDERSON
240 S. WATER STREET MSC 144
HENDERSON, NV 89015



1 On June 11, 2014, Plaintiff filed his Amended Complaint (Doc. 8) in the above-
2 entitled action. Plaintiff alleges therein a 42 USC § 1983 claim against Defendants Officer
3 EBERT, former Henderson Police Chief WHITE, a claim for municipal liability against the
4 CITY, a claim for supervisory liability against former Chief WHITE and claims under state
5 law for malicious prosecution and false arrest.

6 On July 10, 2014, Defendants filed a Motion to Dismiss (Doc. 17) which seeks
7 dismissal of each of the claims alleged against each of the Defendants for failure to state a
8 claim upon which relief can be granted. Defendants' Motion to Dismiss further seeks
9 dismissal premised upon Defendants' claim of qualified immunity, which if sustained,
10 would immunize the individual Defendants from suit.

12 Plaintiff filed his opposition (Doc. 18) on July 28, 2014. The Defendants' Reply was
13 filed on August 7, 2014. The parties held a Fed. R. Civ. P. 26(f) conference on October 3,
14 2014, pursuant to this Honorable Court's Order (Doc. 20).

16 Dismissal of any portion or all of Plaintiff's claims against some or all of the
17 Defendants would have a substantial impact on the scope and course of the discovery to
18 be pursued by the parties in this case. It would also affect the cost incurred by the parties
19 for engaging in discovery.

20 The parties desire a stay of discovery until a ruling has been received on the
21 Defendants' Motion to Dismiss so that they do not have to incur costs for engaging in
22 discovery made unnecessary by the court's decision. The court's decision on the Motion
23 to Dismiss may narrow the focus of discovery in the case.

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For the foregoing reasons the parties STIPULATE AND AGREE to stay all discovery and the filing of the Discovery Plan and Proposed Scheduling Order until the Court rules on the pending Motion to Dismiss.

This request is not made for the purposes of delay, but to avoid having to engage in costly discovery in a matter that may ultimately be dismissed by the Court or in which qualified immunity may be found to apply. The purpose of Federal Rule of Civil Procedure 12(b)(6) is to enable defendants to challenge the legal sufficiency of a complaint without subjecting themselves to discovery. *Rutman Wine Co. v. E & J Gallo Winery*, 829 F.2d 729, 738 (9th Cir. 1987).

DATED this 16th day of October, 2014.

POTTER LAW OFFICES

CITY OF HENDERSON
JOSH M. REID, City Attorney

/s/ Cal J. Potter

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/s/ Nancy D. Savage

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Henderson, Nevada 89009
Attorney for Defendants

ORDER

IT IS SO ORDERED this _____ day of October, 2014.

UNITED STATES MAGISTRATE JUDGE